or not knowing to read and therefore not knowing what was inside it but simply a case of knowing what was inside the document and denying it or else they were so negligent in not caring to read it. So much so that they must be deemed to know what was inside the permit. Mistaken belief in the existence of facts which if true would make the accused's act innocent must I venture to say be a true one; if the mistaken belief is a self-induced one then it could hardly be a defence. Otherwise it could easily be said by an accused person in an offence of this nature in order to exonerate himself that he did not look at the permit when normally one would expect that he would. But to say that he did not look at the permit when he is naturally expected to do so is to say the least being grossly negligent and that is as good as knowledge itself (see *Ratanlal* 22nd Edition at page 721 under the heading: Gross negligence may amount to knowledge).

In the circumstances, I would therefore allow the appeal and substitute the order of acquittal with that of conviction and sentence.

Appeal allowed.

Solicitors: *Sri Ram, Chan & Chia.*

KAMARUDDIN v. MARIS PILLAI & ANOR.

[O.C.J. (Abdul Hamid J.) March 7, 1977]
[Kuala Lumpur — Civil Suit No. 561 of 1976]

Damages — Quantum — Multiple Injuries and ¼" shortening.

The plaintiff, aged 33, was a bus conductor. He did vegetable gardening during his free hours. As a result of the accident while riding pillion on a motor cycle, he suffered the following injuries:—

1. Cerebral concussion
2. 3½" laceration over eyelid
3. compound fracture of right tibia and fibula
4. ¼" shortening of the right leg.

At the right ankle dorsiflexion was limited to 15 degrees (normal range 45 degrees) and plantarflexion was limited to 25 degrees (normal range 50 degrees). He would likely suffer osteoarthritis in the ensuing years. The plaintiff would also have difficulties in squatting, climbing, lifting of heavy loads etc.

Held: he should be awarded general damages in the sum of $13,000 for pain and suffering and $12,000 for loss of future earnings at a purchase of 14 years of about $100 a month.

CIVIL SUIT.

B.S. Sidhu for the plaintiff.

G.S. Nijar for the defendant.

Abdul Hamid J.: The appeal seems to be against quantum of damages only as liability has been admitted.

The plaintiff sustained injuries while riding pillion on a motor cycle at 8.00 p.m. on February 13, 1974. He was hospitalised for a total period of approximately five months at Kajang District and Kuala Lumpur General Hospitals. At the time of the accident the plaintiff was an estate bus conductor. His hours of work were between 5.45 and 7.30 a.m., 11.00 a.m. and 2.00 p.m. and 5.00 p.m. and 7.00 p.m. He planted vegetables during his free hours between 8.00 a.m. to 10.00 a.m. and 2.30 to 4.30 p.m. planting cocoa, yam, tapioca and other crops over a two acre lot held by him under Temporary Occupation Licence.

The plaintiff resumed employment six months after the accident and thus the court is only called upon to assess the damages for pain and suffering and the loss of earnings arising out of his inability to continue with the vegetable gardening.

In considering damages for pain and suffering I have had regard to the following injuries sustained by the plaintiff —

1. Cerebral concussion.
2. 1" laceration on forehead.
3. 3½" laceration over eyelid.
4. Compound fracture of right tibia and fibula-lower 1/3rd.

(District Hospital Kajang page 1 AB).

1. 1½" laceration over left forehead.
2. 2" laceration over lateral aspect of right leg.
3. Fracture middle 1/3 right tibia and right medial malleolus.
4. Double fracture of right fibula.

I have also examined very carefully the medical report given by Dr. Mahmood Merican Consultant Orthopaedic Surgeon who stated that there were scars near the eyes, on the forehead, right thumb, index finger and side of right leg. The plaintiff walked with a limp from shortening (¾") of the right leg. The right leg was wasted. At the right ankle dorsiflexion was limited to 15 degrees (normal range 45 degrees) and plantarflexion was limited to 25 degrees (normal range 50 degrees). Dr. Mahmood is of the opinion that the scars and the shortening of the right leg resulting from his injuries will be permanent.

Further examination on December 28, 1976 by Dr. Mahmood Merican indicated that the plaintiff's disabilities have remained as before and that the scars, the shortening and wasting of the right leg and the restriction of movements at the ankle and foot have persisted. The overlap of the bone fragments at the fracture of the tibia produces an obvious deformity of the shin.

Dr. Mahmood also said that the pain in the right ankle if he were to walk far or fast is likely to persist and be made worse by osteoarthritis in the ensuing years.

Mr. Sidhu referred to a few decided cases on quantum of general damages. In the light of the injuries and consequential disabilities, namely, squatting, climbing, lifting of heavy loads, etc., it is my judgment that a sum of $13,000 for pain and suffering would be a fair and reasonable compensation. As regards loss of future earnings I would assess the loss resulting from the loss in the earning capacity in the light of the consequential disabilities of about $100 per month. I assess the loss at $12,000 a purchase of 14 years taking into account the fact that the plaintiff was only 33 years old at the date of the accident. I therefore awarded general damages for pain and suffering in the sum of $13,000 and loss of future earnings $12,000, a total of $25,000 and costs.

Order accordingly.

Solicitors: *B.S. Sidhu & Co.; Cheong Lee & Ong.*